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16 LEDUP ENTERPRISE, INC.

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CHAO TAI ELECTRONICS CO.,
LTD, a Taiwanese corporation,

Plaintiff,

v.

LEDUP ENTERPRISE, INC., a
California corporation; LOWE'S HIW,
INC., a Washington Corporation; THE
HOME DEPOT U.S.A., INC., a
Delaware corporation; MARTHA
STEWART LIVING OMNIMEDIA,
INC., a Delaware corporation; and
DOES 1 through 10, inclusive,

Defendant.

Case No. CV-12-10137-R-MRW

**DEFENDANT LEDUP
ENTERPRISE, INC.'S ANSWER
AND AFFIRMATIVE DEFENSES TO
FIRST AMENDED COMPLAINT**

**(Filed concurrently with manually
filed Counterclaims pursuant to
L.R. 3-2)**

DEMAND FOR JURY TRIAL

First Amended Complaint filed:
February 19, 2013

ANSWER

Defendant, LedUp Enterprise, Inc., answers the First Amended Complaint
and asserts its counterclaims against the Plaintiff, Chao Tai Electronics Co., Ltd., as
follows:

1 1. LedUp Enterprise, Inc. hereafter designated as "LedUp", admits the
2 allegations of jurisdiction and venue directed toward it contained in Paragraphs 1-4,
3 except it denies the allegations of direct, contributory and inducement of
4 infringement set forth in Paragraph 4.

5 2. As the allegations of Paragraph 5-10 are directed to other Defendants,
6 LedUp denies the allegations based on lack of information.

7 3. As to allegations of Paragraph 11-13, LedUp lacks sufficient
8 knowledge and thus denies said allegations.

9 4. LedUp admits the allegations of Paragraph 14.

10 5. As to the allegations of Paragraph 15-24 LedUp lacks sufficient
11 information and, therefore, denies all allegations, other than to admit that in the past
12 LedUp has sold some LED light strings to Home Depot using the Martha Stewart
13 brand as alleged in Paragraph 18, but it cannot determine if any of the allegedly
14 infringing products were LedUp's.

15 6. Paragraph 25 incorporates prior allegations. LedUp incorporates its
16 prior admissions and denials in response.

17 7. LedUp admits that United States patent 7,301,287, the '287 patent, was
18 issued, as alleged in Paragraph 26 but denies that it was properly issued and denies
19 that it is valid and enforceable.

20 8. LedUp lacks sufficient information as to the allegations of Paragraph
21 27-29 and therefor denies said allegations.

22 9. LedUp denies the allegations of Paragraph 30.

23 10. As to the allegations of Paragraph 31-34, LedUp lacks sufficient
24 information as to the allegations and the particulars of the Model #59005HO light
25 string or other lights strings referred to and therefor denies the allegations.

26 11. LedUp admits that it sells LED light strings, including under the
27 Martha Stewart brand as alleged in Paragraph 35, but denies its light strings infringe
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1 the `287 patent, and on lack of information it denies that it supplied the products of
2 the action.

3 12. As to the allegations of Paragraph 36-37 LedUp lacks sufficient
4 information as to the exact products referred to and therefor denies the allegations.
5 Specifically LedUp denies that any of its products infringe the `287 patent.

6 13. As Paragraphs 38-39 are directed to other Defendants, LedUp denies on
7 lack of information.

8 14. LedUp denies the allegations of Paragraphs 40-41.

9 15. LedUp denies all allegation of the Complaint or Amended Complaint
10 unless expressly admitted herein.

11 16. The Amended Complaint fails to state a claim against Defendant
12 LedUp and should be dismissed.

AFFIRMATIVE DEFENSES

13 Based on the current information and the expectation that discovery will
14 support affirmative defenses, LedUp states as follows:

FIRST AFFIRMATIVE DEFENSE

(Failure to State a Claim)

15 1. Plaintiff's Amended Complaint fails to state a claim upon which any
16 relief may be granted against LedUp.

SECOND AFFIRMATIVE DEFENSE

(Noninfringement)

20 2. Patent No. 7,301,287 is not and has not been infringed by any product
21 or method made, used, sold, offered for sale or imported by this Defendant.

THIRD AFFIRMATIVE DEFENSE

(Noninfringement by way of Contributory or Inducement)

25 3. Defendant has not contributed to or induced or otherwise become
26 secondarily liable for any infringement.

FOURTH AFFIRMATIVE DEFENSE

(Lack of Standing)

3 4. The Plaintiff is not the true party in interest and has no standing to
4 assert the claims herein.

FIFTH AFFIRMATIVE DEFENSE

(Invalidity)

7 5. The Patent is invalid for failure to comply with at least the provisions
8 of 35 U.S.C. §§ 102, 103 or 112, including, without limitations, the patent is invalid
9 and unenforceable as its claims are anticipated, obvious and indefinite.

SIXTH AFFIRMATIVE DEFENSE

(Laches)

12 6. Plaintiff's claims for relief are barred, in whole or in part, by the
13 doctrine of laches.

SEVENTH AFFIRMATIVE DEFENSE

(Waiver)

16 7. The Plaintiff's claims are barred by operation of waiver.

EIGHTH AFFIRMATIVE DEFENSE

(Equitable Estoppel)

19 8. The Plaintiff's claims are barred by equitable estoppel.

NINTH AFFIRMATIVE DEFENSE

(Unclean Hands)

22 9. The Plaintiff's claims are barred by equitable defenses of unclean
23 hands.

TENTH AFFIRMATIVE DEFENSE

(Limitation on Damages)

26 10. Plaintiff's claims for damages are barred, in whole or in part, by 35
27 U.S.C. §§ 286 and 287.

ELEVENTH AFFIRMATIVE DEFENSE

(Prosecution History Estoppel)

3 11. Plaintiff's claims for relief are barred, in whole or in part, by the
4 doctrine of prosecution history estoppel. Plaintiff is estopped from asserting or
5 obtaining any construction of the claims of the '287 patent that would result in any
6 of the claims covering any LedUp product.

ADDITIONAL DEFENSES

8 12. LedUp reserves the right to amend its Answer and assert additional
9 defenses as supported by the facts and discovery of this case.

PRAYER FOR RELIEF

1 WHEREFORE, Defendant LedUp Enterprise, Inc., requests the following
2 relief:

3 A. Dismissal of the Plaintiff's Amended Complaint and all claims therein,
4 without recovery from this Defendant.

5 B. Judgment declaring that LedUp Enterprise, Inc., is not infringing any
6 claim of the Plaintiff's patent.

7 C. Judgment that the Co-Defendants, to the extent they sold, offered for
8 sale or used any of this Defendant's products, did not infringe the Plaintiff's patent
9 or that they did not infringe due to the invalidity of said patent.

0 D. Judgment pursuant to 35 U.S.C. § 285 awarding this Defendant such
1 relief, including attorneys' fees, costs and such other relief as appropriate, warranted
2 by the circumstances.

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1 DATED: April 12, 2013
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3 By: /s/ Sean A. O'Brien
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DEMAND FOR JURY TRIAL

2 Pursuant to Local Rule 38-1 and Rule 38 of the Federal Rules of Civil
3 Procedure, LedUp Enterprise, Inc., respectfully requests a jury trial on all issues so
4 triable.

7 DATED: April 12, 2013

By: /s/ *Sean A. O'Brien*

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